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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,749	01/23/2007	Kazuo Abe	062516	4481
38834 7590 11/12/2009 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER				
SINGH, KAVEL				
ART UNIT		PAPER NUMBER		
3651				
NOTIFICATION DATE		DELIVERY MODE		
11/12/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentmail@whda.com

### Office Action Summary

**Application No.**

10/578,749

**Applicant(s)**

ABE ET AL.

**Examiner**

KAVEL P. SINGH

**Art Unit**

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Regarding the reasoning of the intended use in regards to the square cylindrical containers in the office action dated 5/08/09 is withdrawn. Regarding the patentable weight towards the preamble of a system of a chainless container transporting device, the phrase "a chainless container transport" is not given patentable weight unless it is in the body of the claims. Therefore the examination of the claims excludes the statement "a chainless container-transporting device for transporting square-cylindrical containers by holding them with container holders formed between container-transporting means arranged to face parallel with each other, wherein the container-transporting means is equipped with". The limitation of the chainless container-transport must be in the body of the claim to be given patentable weight. For the foregoing reasons, claims 1-26 stand rejected.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2,3,4,5,16,21,22,24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmen U.S. Patent No. 5,090,557.

Claim 1, Carmen teaches a number of blocks 2,10 having a holding part constituting a part of the container holders 9; an outward block-support member 4 and a homeward

block-support member 4 (pulleys on each side), arranged by extending in the conveying direction, for supporting the number of blocks 2,10 in a movable condition along the conveying direction Fig. 1; a first transfer means (as articles enter at 2 shown in Fig. 1) provided between the terminal end of the outward block-support member 4 and the start end of the homeward block-support member 4, capable of sequentially transferring the blocks 2,10 that have been conveyed while being supported by the outward block-support member 3 to the homeward block-support member 4; a second transfer means provided between the terminal end of the homeward block-support member 4 and the start end of the outward block-support member 4 (as articles exit at 5 shown in Fig. 1), capable of sequentially transferring the blocks that have been conveyed while being supported by the homeward block-support member 4 to the outward block-support member 4; and a block delivering means 3 capable of delivering and conveying blocks 2,10 so that each block can circulate in the order of outward block-support member 4, first transfer means (at 2), homeward block-support member 4, second transfer means (at 5) and outward block-support member 4.

Claim 2, Carmen teaches the block-delivering means 3 is so constructed that it can deliver one or more blocks 2,10 to the downstream side of the conveying direction (to 5), and that an adjacent block 2,10 can be sequentially conveyed by the block being delivered, to the downstream side of the conveying direction Fig. 1.

Claim 3, Carmen teaches the block-delivering means 3 is so constructed that it can intermittently deliver and convey one or more blocks 2,10 by a given pitch, to the downstream side of the conveying direction.

Claim 4, Carmen teaches block-delivering means 3 is so constructed that it can deliver blocks 2,10 supported by the outward block-support member<sup>3</sup> and/or homeward block-support member 3 to the downstream side of the conveying direction (at 5 Fig. 1).

Claim 5, Carmen teaches or more block-delivering means 3 are provided (Fig. 1 top and bottom).

Claims 16 and 21, Carmen teaches first transfer means and/or the second transfer (at 2/5) means are equipped with a U-shaped connection block-support member (part of 2,10,9) connected to the outward block-support member or the homeward block-support member 4 Fig. 1.

Claim 22, Carmen teaches the container holder 9 is constituted by a holding part for holding at least two opposing angular corners of a square-cylindrical container Fig. 1.

Claim 24, Carmen teaches is equipped with a container-support member situated on the lower side of the transported container, for providing a bottom support for the container Fig. 1.

Claim 26, Carmen teaches the device is constructed to be equipped on a filling-and-packaging machine for filling and packaging content in the container (intended use and capable of since structure is taught).

Claims 6-8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmen U.S. Patent No. 5,090,557 in view of Hill U.S. Patent 4,590,643.

Claim 6, Carmen does not teach as Hill teaches the block-delivering means 158 is equipped with a drive shaft 162 and a pair of discs 158 or a column having on its circumferential surface convex parts or concave parts capable of engaging with and

delivering the blocks to the downstream side of the conveying direction Fig. 8. It would be obvious to one of ordinary skill to use a drive shaft and discs to run the conveyor as taught by Hill into the invention of Carmen to allow constant motion of the system.

Claim 7, Carmen does not teach as Hill teaches wherein the block 74 is equipped with a rotatable rod-shaped member 162 which gears into the concave parts formed on the outer circumferential surface of the pair of discs 158 or the column. It would be obvious to one of ordinary skill to use a drive shaft and discs to run the conveyor as taught by Hill into the invention of Carmen to allow constant motion of the system.

Claim 8, Carmen does not teach as Hill teaches the block-delivering means 158 is equipped with a block engaging-and-pushing member which moves forward and backward by a given stroke, capable of delivering one or more blocks while engaging therewith to the downstream side of the conveying direction. It would be obvious to one of ordinary skill to use a drive shaft and discs to run the conveyor as taught by Hill into the invention of Carmen to allow constant motion of the system.

Claim 15, Carmen does not teach as Hill teaches the first transfer means (toward the c=block in direction of 7) and/or the second transfer means 52 are equipped with a pair of discs 158 or a column having on its circumferential surface concave parts or convex parts capable of guiding and transferring the block while engaging therewith (drive the system). It would be obvious to one of ordinary skill to use a drive shaft and discs to run the conveyor as taught by Hill into the invention of Carmen to allow constant motion of the system.

Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carmen U.S. Patent No. 5,090,557 in view of Proksa U.S. Patent 4,863,010.

Claim 9, Carmen teaches the outward block-support member 4 and the homeward block-support member 4, but Proksa teaches the members 8 are two respective guide rails disposed above and beneath the block 3 Fig. 1. It would be obvious to one of ordinary skill to use guide rails as taught by Proksa into the invention of Carmen to provide additional stability to the transport.

Claims 10 and 12, Carmen does not teach as Proksa teaches the guide rails 8 are rod-shaped guide rails having a circular or polygonal cross-section Fig. 1. A change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). It would be obvious to one of ordinary skill to use guide rails as taught by Proksa into the invention of Carmen to provide additional stability to the transport.

Claim 11, Carmen does not teach as Proksa teaches the portion supporting the blocks 3 delivered by the block-delivering means 4 of the guide rails 8 has a rectangular cross-section Fig. 1. It would be obvious to one of ordinary skill to use guide rails as taught by Proksa into the invention of Carmen to provide additional stability to the transport.

Claims 13 and 18, Carmen does not teach as Proksa teaches the guide rail 8 has a roller 6 for reducing the slide-friction factor at a part in contact with the block 3. It would be obvious to use a roller in addition to the guide rail as taught by Proksa into the invention of Carmen to allow ease to flow of the conveyor.

Claim 14, Carmen does not teach as Proksa teaches the roller 6 is provided on the portion supporting blocks 3 delivered by the block-delivering means 4 of the guide rails 8. It would be obvious to use a roller in addition to the guide rail as taught by Proksa into the invention of Carmen to allow ease to flow of the conveyor.

Claim 17, Carmen does not teach as Proksa teaches the connection block-support (2,10,9 of Carmen) member is a connection guide rail 8 of Proksa having a rectangular cross-section Fig. 1 of Proksa. A change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). It would be obvious to one of ordinary skill to use guide rails as taught by Proksa into the invention of Carmen to provide additional stability to the transport. Claims 19 and 20, Carmen does not teach as Proksa teaches the roller 6 is provided on a linear part near a bent part of the U-shaped connection block-support member (in combination of 8 of Proksa and 2,10,9 of Carmen). It would be obvious to one of ordinary skill to use guide rails as taught by Proksa into the invention of Carmen to provide additional stability to the transport.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carmen U.S. Patent No. 5,090,557 in view of Jacobs U.S. Publication 2005/0076613.

Claim 23, Carmen does not teach as Jacobs teaches the adjacent blocks (2,10 of Carmen) are connected with a permanent magnet P0057. It would be obvious to one of ordinary skill to use magnets as taught by Jacob into the invention of Carmen to retain the blocks for a secure hold.



Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carmen U.S. Patent No. 5,090,557 in view of Lohse U.S. Patent 3,017,731.

Claim 25, Carmen does not teach as Lohse teaches an upwardly and downwardly penetrating opening is formed at a given position of the container-support member, and a container lifting-and-lowering means is equipped, which means being capable of inserting through the opening a container lifting-and-lowering member (via 31) for pushing up the container B from the bottom part to the upper side and for lowering it to its original position C2 L25-30. It would be obvious to one of ordinary skill to use a lifting/lowering member as taught by Lohse into the invention of Carmen in order to provide additional movement.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Kavel P. Singh whose telephone number is (571) 272-2362. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/  
Supervisory Patent Examiner, Art  
Unit 3651

KPS